

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 05-CR-283

RAID THAIR,

Defendant.

ORDER VACATING FEBRUARY 1, 2008, ORDER VACATING SENTENCE
AND DENYING DEFENDANT'S MOTION TO AMEND OR CORRECT SENTENCE

On January 23, 2008, this court conducted Raid Thahir's sentencing hearing, during which it sentenced Thahir to sixty months of imprisonment, plus three years of supervised release. Thereafter, Thahir moved for correction of the sentence under Fed. R. Civ. P. 35 to include a recommendation to the Bureau of Prisons that Thahir be placed in the BOP's 500-hour drug treatment program. On February 1, 2008, within seven days of the imposition of Thahir's sentence, the court conducted a hearing at which it granted that motion. Additionally, the court vacated Thahir's original sentence and reduced the period of imprisonment to forty-eight months.

The court has reviewed 18 U.S.C. § 3582(c); Fed. R. Civ. P. 35; *United States v. Smith*, 438 F.3d 796 (7th Cir. 2006); *United States v. Wisch*, 275 F.3d 620 (7th Cir. 2001); and *United States v. Nguyen*, Nos. 07-2100 and 07-2101, slip op. (7th Cir. Feb. 15, 2008). (Copies of *Nguyen* and its underlying district court order are attached.) As a result, the court concludes that it was without jurisdiction under § 3582(c) and Rule 35 to reduce Thahir's

sentence or modify his judgment of conviction after January 23, 2008. Rule 35(a) permits correction of a sentence only for arithmetical, technical, or other clear error.

Therefore,

IT IS ORDERED that the court's February 1, 2008 order purportedly vacating the sentence imposed on January 23, 2008, is vacated.

IT IS ORDERED that Thahir's motion for correction of the sentence is denied.

As a result, the sentence imposed on January 23, 2008, stands and judgment will issue accordingly.

Dated at Milwaukee, Wisconsin, this 28th day of February, 2008.

BY THE COURT

s/ C. N. CLEVERT, JR.

C. N. CLEVERT, JR.

U. S. District Judge